



# ABC Update July 2015

1003 Twilight Trail \* Frankfort, KY 40601\* 502-564-4850

<http://abc.ky.gov> \*[www.facebook.com/kentuckyabc](http://www.facebook.com/kentuckyabc)



## Is That Slushy Legal?

The ever popular slushy is offered for sale as an alcoholic beverage at many retail establishments during summer months. Some of these frozen concoctions are malt beverage based. Others are made with distilled spirits or wine. Retailers and consumers alike should know the law applicable to slushes. This article describes circumstances in which a slushy may be made, stored, sold, and consumed in accordance with Kentucky law.



### Type of License Required to Serve a Slushy

Since a slushy is a drink made with melting ice and for immediate consumption, it is strictly a by-the-drink product. Slushes are usually poured into a glass or cup. A slushy's by-the-drink character is not changed by the addition of a lid on a cup, or paper cover or tape over the straw hole.

For this reason, a retailer must possess a license type which permits drink sales and consumption ON the premises. If the slushy is malt beverage based, the retail license must permit malt beverage drink sales like an NQ-2 retail drink license or an NQ-4 retail malt beverage drink license. If the slushy is distilled spirits or wine based, the retail license must permit distilled spirits and wine drink sales such as quota retail drink license or an NQ-2 retail drink license.

### Slushy Machines

A retailer licensed to sell alcoholic beverages by the drink may use a slushy machine that keeps the product frozen for later use. A malt beverage based product may be stored inside a slushy machine indefinitely.

However, a slushy machine containing a product made with distilled spirits or wine must be emptied nightly. That is because KRS 244.310(1) says in relevant part: "No licensee for sale of distilled spirits and wine by the drink, other than a railroad system licensee, shall keep upon the licensed premises any distilled spirits or wine in any container except in the original package . . . as received from the wholesaler." a product is kept or stored overnight during non-business hours. A violation of this law could result in a license suspension, fine, or revocation. KRS 243.480(1); KRS 243.490(1).

### Package Slushy Sales for Off-Premises Consumption are not Permitted

Since a slushy is strictly a by-the-drink product, it cannot be sold as a package beverage product for off-premises consumption. It is illegal to permit a consumer to leave the licensed premises with a slushy or sell a slushy at a drive-through window. In that situation the driver violates KRS 189.530(2) (Possession of Open Alcoholic Beverage Container in a Motor Vehicle) upon receiving the slushy and any occupant who consumes the slushy upon leaving the licensed premises violates KRS 222.202(2) (Drinking Alcoholic Beverages in a Public Place).

Violations for selling slushes for off-premises package sales could result in a license suspension, fine, or revocation. KRS 243.480(1); KRS 243.490(1). In addition to administrative penalties, a retailer is likewise criminally liable under KRS 243.990 for violations of its business authorized statutes, and also, the criminal complicity statute, KRS 502.020(1), or the criminal facilitation statute, KRS 506.080(1), for the patrons' crimes referenced above.

Follow us on FaceBook at [www.facebook.com/kentuckyabc](http://www.facebook.com/kentuckyabc).



## Document Security

In an effort to protect your personal information, the Department of Alcoholic Beverage Control can no longer accept applications for licenses or registration forms for STAR classes via email. These documents may be electronically transmitted to the Department via fax at 502-564-7479.

## July and August STAR Training Schedule

To view the entire 2015 STAR training schedule, visit our website: [www.abc.ky.gov](http://www.abc.ky.gov).

Class	Time	City	County	Location
07/01/2015	9:00AM	London	Laurel	Holiday Inn Express
07/07/2015	9:00AM	Louisville	Jefferson	Ramada Conference Center
07/07/2015	9:00AM	Lexington	Fayette	Sleep Inn
07/13/2015	9:00PM	Frankfort	Franklin	Kentucky Alcoholic Beverage Control
07/14/2015	9:00AM	Somerset	Pulaski	Hampton Inn
07/15/2015	9:00AM	Hazard	Perry	Kentucky River ADD/Perry Park
07/15/2015	9:00AM	Lexington	Fayette	Sleep Inn
07/18/2015	9:00AM	Lexington	Fayette	Sleep Inn
07/20/2015	9:00AM	Owensboro	Daviess	Owensboro Police Station
07/20/2015	9:00AM	Cave City	Barren	Cave City Convention Center
07/21/2015	9:00AM	Paducah	McCracken	Paducah City Hall
07/21/2015	5:00PM	Danville	Boyle	Inter-County Energy Co-op
07/27/2015	9:00AM	Elizabethtown	Hardin	Pritchard Community Center
07/28/2015	5:00PM	Lexington	Fayette	Sleep Inn
07/29/2015	9:00AM	Georgetown	Scott	Hilton Garden Inn
08/04/2015	5:00PM	Lexington	Fayette	Sleep Inn
08/05/2015	9:00AM	Mt Sterling	Montgomery	Mt. Sterling Health and Civic Center
08/10/2015	5:00PM	Frankfort	Franklin	Franklin Co Extension Service
08/10/2015	5:00PM	Owensboro	Daviess	Owensboro Police Station
08/11/2015	9:00PM	Hopkinsville	Christian	Hampton Inn
08/15/2015	9:00PM	Lexington	Fayette	Sleep Inn
08/17/2015	6:00PM	Louisville	Jefferson	Ramada Conference Center
08/18/2015	5:00PM	Paducah	McCracken	Paducah City Hall
08/19/2015	9:00AM	Lexington	Fayette	Sleep Inn
08/24/2015	9:00AM	Grayson	Carter	City Municipal Building
08/25/2015	5:00PM	Lexington	Fayette	Sleep Inn
08/25/2015	5:00PM	Murray	Calloway	Murray State University Curris Center
08/25/2015	9:00AM	Florence	Boone	Florence Government Center